

at this point how much more time it is going to take to do so. I appreciate the majority leader's determination to finish our work before we leave. We will work with him to do that.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

INTELLIGENCE COMMITTEE REORGANIZATION

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. Res. 445, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 445) to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Pending:

McConnell/Reid/Frist/Daschle Amendment No. 3981, in the nature of a substitute.

Bingaman (for Domenici) Amendment No. 4040 (to Amendment No. 3981), to transfer jurisdiction over organization and management of United States nuclear export policy to the Committee on Energy and Natural Resources.

The PRESIDENT pro tempore. Under the previous order, the time until 11:15 a.m. shall be equally divided between the managers, with 30 minutes under the control of the Senator from Iowa, Mr. HARKIN. Who yields time?

The majority leader is recognized.

AMENDMENT NO. 4035, AS MODIFIED

Mr. FRIST. Mr. President, I ask for the consideration of the modified version of my amendment No. 4035, which is at the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 4035, as modified.

The amendment is as follows:

At the end of section 201, insert the following:

(1) PUBLIC DISCLOSURE.—Section 8 of S. Res. 400 is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “shall notify the President of such vote” and inserting “shall—

“(A) first, notify the Majority Leader and Minority Leader of the Senate of such vote; and

“(B) second, consult with the Majority Leader and Minority Leader before notifying the President of such vote.”;

(B) in paragraph (2), by striking “transmitted to the President” and inserting “transmitted to the Majority Leader and the Minority Leader and the President”; and

(C) by amending paragraph (3) to read as follows:

“(3) If the President, personally, in writing, notifies the Majority Leader and Minority Leader of the Senate and the select Committee of his objections to the disclosure of such information as provided in paragraph (2), the Majority Leader and Minority Leader jointly or the select Committee, by majority

vote, may refer the question of the disclosure of such information to the Senate for consideration.

Mr. FRIST. Mr. President, this amendment has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4035), as modified, was agreed to.

The PRESIDENT pro tempore. Who seeks recognition?

The Senator from Nevada.

Mr. REID. Mr. President, we have a number of amendments that are still outstanding. We disposed of the Frist amendment this morning, and we still have COLLINS, NICKLES, HUTCHISON, BINGAMAN, and ROCKEFELLER that are in order. I don't know if they are going to offer all of those amendments, but we have 1 hour and 5 minutes until we start voting. Everyone should understand, as I understand the order entered, a half hour over the next 65 minutes is for Senator HARKIN. So we have 35 minutes to debate these amendments. If they are not debated, we will start voting on them.

I think it would be unfortunate if people had to act on amendments without hearing something from someone. I hope they will either withdraw the amendments or present them. It puts Senator MCCONNELL and me in an awkward position when the amendments are in order and nobody is here to offer them. It is not fair to the Senate that there is not someone who lets us know whether they are going to be withdrawn or be offered, because some of the subject matter of the amendments is not very clear, as least to this Senator.

I have been told the Rockefeller amendment is not going to be offered.

The PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, floor staff also informs me that the Collins amendment will not be offered.

As Senator REID indicated, we hope to hear from others who are on the list as to what their intentions might be. If they want to offer their amendment, now would be a good time to come and explain it.

The PRESIDENT pro tempore. Does the Senator need to withdraw that amendment?

Mr. REID. The Collins amendment is withdrawn?

The PRESIDENT pro tempore. It is the Chair's understanding that it will not be offered. I do not know if it is pending.

Mr. MCCONNELL. It is not pending.

Mr. REID. It is not pending, so I ask that it be deleted from our list because it is on the list of amendments that was entered into last night. So we still have the Nickles, Hutchison, and Bingaman amendments.

The PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. I have been informed that Senator NICKLES does intend to offer his amendment.

AMENDMENT NO. 4027 TO AMENDMENT NO. 3981, AND AMENDMENT NO. 4041 TO AMENDMENT NO. 4027, EN BLOC

Mr. MCCONNELL. Mr. President, I call up amendment No. 4027 by Senator NICKLES and also a second-degree amendment by Senator NICKLES, No. 4041. As I indicated, Senator NICKLES will be here to debate that amendment later.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. NICKLES, for himself, and Mr. CONRAD proposes an amendment numbered 4027.

The Senator from Kentucky [Mr. MCCONNELL], for Mr. NICKLES, for himself, and Mr. CONRAD proposes an amendment numbered 4041 to amendment No. 4027.

The amendments are as follows:

AMENDMENT NO. 4027

(Purpose: To vest sole jurisdiction over the Federal budget process in the Committee on the Budget)

At the end of Section 101, insert the following:

“(e) JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, including:

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits of surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as “rescissions” and “deferrals”;

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.”

AMENDMENT NO. 4041 TO AMENDMENT NO. 4027

(Purpose: To vest sole jurisdiction over the Federal budget process in the Committee on the Budget, and to give the Committee on the Budget joint jurisdiction with the Governmental Affairs Committee over the process of reviewing, holding hearings, and voting on persons, nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget)

Strike all after the first word, and insert the following:

JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are:

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as “rescissions” and “deferrals”;

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(f) OMB Nominees.—The Committee on the Budget and the Governmental Affairs Committee shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.

The PRESIDENT pro tempore. Who yields time?

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I say to the Senator from Iowa, we have a few amendments that may be offered. I am concerned that the offerors will have no time at all to explain their amendments prior to the votes at 11:15. I am wondering if the Senator from Iowa would object if we have Senators who want to offer amendments on our list, which they are entitled to do, prior to the vote at 11:15, how we could accommodate them and give them an opportunity to explain what the amendment was about.

Mr. HARKIN. I do not mind. I thought I had half an hour under the

rule. I do not care when I take my half hour. I can take it now or I will take it whenever. It does not make any difference to me.

Mr. McCONNELL. Mr. President, his half hour is unrelated to the underlying bill.

The PRESIDENT pro tempore. That is correct, and the time of the quorum has not been charged against the Senator from Iowa. He has 30 minutes.

Mr. HARKIN. I do not have to take it now if the Senator wants to do something else.

The PRESIDENT pro tempore. The Senator is recognized for his 30 minutes.

Mr. HARKIN. Mr. President, I understand I have a half hour of time yielded to me. I may have to yield it to another Senator, but I will take some time right now.

NATURAL DISASTER RELIEF

Mr. President, the resolution I have offered is very straightforward. It simply reiterates the policy that this Senate and this Congress has endorsed repeatedly over the decades. It basically is that agricultural disaster assistance should be designated as emergency spending and not taken out of other farm programs. This is the way we have done this going back 50 years or more. In fact, I have looked and I have only found one instance in the last 50 years where we have offset, as they say, disaster assistance with some other money from the same program.

That was 2 years ago and that was corrected right away. We are now about to do the same thing.

Mr. President, one of the few uncertainties about agriculture is the uncertainty of the weather. And that is true whether it is farming or ranching, growing orchard crops or growing any other type of agricultural production. Even when a farmer has used his best practices, taken prudent steps to produce a crop, severe weather events can destroy years of work and threaten their livelihood.

Let me just quote from the USDA Web site:

Natural disaster is a constant threat to America's farmers and ranchers. From drought to flood, freeze, tornadoes, or other calamity, natural events can severely hurt even the best run agricultural operation.

We have responded to these disasters through emergency legislation in the past because we believed it was essential to respond to natural disasters to lessen the financial hardship involved. We do have programs in place such as crop insurance, loans, and so forth. However, major disasters can easily overwhelm these programs, and that is why Congress has consistently responded to natural disasters by providing emergency assistance. This emergency assistance usually covers crop losses, forages—that is hay and things like that—pasture losses for livestock producers, funding for tree assistance programs, and again there is some misconception that this disaster money makes the producer whole, puts

the producer where he would be if the disaster never happened. That is just not true.

Let me give you an example. It is only available, first of all, if you have over 35 percent loss of your expected production. So if you have a loss under 35 percent, you don't get anything anyway. But let's take an example of a Kansas farmer who, in a normal year, produces 100 bushels of grain sorghum per acre. Now he only harvests 80 bushels. Well, if the grain sorghum is worth \$2.30 a bushel, that farmer will have an income shortfall of \$46 an acre, but he will not be eligible for any disaster assistance because he only had a 20-percent loss, so he gets nothing. If the yield is only 50 percent, that means he has a 50-percent loss. His income shortfall is \$115 an acre. Now the farmer is eligible for disaster assistance for 15 bushels of that loss—at a low payment rate. So, again, it is only a small fraction of what he gets. He loses \$115, and receives only about \$20. So some people think disaster assistance puts you back where you were if you were whole. No, it does not. It basically just kind of keeps you going, and that is about it.

Now, you will hear a lot of reference to drought relief or a drought bill or drought emergency assistance. Well, that is a misconception. It has been a misconception all along. While that may be the most common problem, disaster legislation covers the whole range of weather-related losses. The bill language covers losses “due to damaging weather or related conditions.”

In addition to drought, the regulations that carry out disaster assistance include hurricanes, hail, floods, fires, freezes, tornadoes, mud slides, pest infestation, and other calamities—in short, just about anything Mother Nature can throw agriculture's way. It doesn't matter what weather event causes the loss. It doesn't matter if it is part of a hurricane that has a name or just a plain old ordinary storm that strikes the Midwest. It doesn't matter whether the crop loss happens in a catastrophic afternoon storm or whether it is the result of a drought that lasts 9 or 10 or 12 months. We have always included those in disaster assistance and treated them alike. That is what we passed in the Senate a few weeks ago. We passed an amendment unanimously on a voice vote to cover all types of weather-related disaster losses across the country and treated them the same.

That is basically what my resolution says. The White House and the House of Representatives decided to take a different approach. President Bush sent Congress the disaster assistance proposal that included agricultural disaster payments only for losses caused by hurricanes and left out assistance for a whole range of other disaster losses across the country. Furthermore, this hurricane disaster assistance would be designated emergency spending, meaning that it would not be

taken away from other programs. The President was adamant that if Congress is going to respond to any other disasters across the country, then the cost has to be offset from the farm bill, and that is what the House measure did. It is interesting, the States included in the House hurricane package are Florida, Alabama, Mississippi, Louisiana, South Carolina, North Carolina, Georgia, Virginia, and Pennsylvania. So if you are a farmer in those States and you have a hurricane-related loss, your losses are covered without offsets. You get the emergency spending measure assistance. Here is the interesting wrinkle, Mr. President, in the President's package. If you are a farmer in one of those hurricane States that I just mentioned, but your loss was not from the hurricane—let's say you had a hailstorm. Let's say you had high wind damage from a severe storm in May. Let's say you had a pest infestation or something like that. Guess what. You get no assistance. In the House, in what the President proposed, if you suffer loss from a hurricane, your payments are under emergency spending. But if you are in a hurricane State and you have another disaster caused by a hailstorm, well, then the cost of your assistance comes out of the farm bill.

What kind of nonsense is that?

A sugarcane farmer, God bless him, in Florida lost his crop because of the hurricane. That farmer gets compensated out of the emergency package. Let's say you are a corn farmer in Ohio and your crop was knocked down by a tornado. Guess what. You are not in. Whatever assistance you get has to come out of the farm bill. So why is it, why is it that if you got hit by a hurricane, you are treated one way; if you get hit by a tornado or a hailstorm or a fire or a drought, you are treated another way. It absolutely makes no sense. So, again, we draw these artificial lines. The President has drawn them. Why discriminate against certain farmers? If you are a farmer and you lose your crop, as I said, to a tornado or high winds in Ohio or Wisconsin or Iowa or Minnesota or Missouri, well, guess what. They are going to take it out of one pocket and put it into your other pocket. But if you are a farmer down in Florida, they don't take it out of your pocket. The whole country, all of us, help pay for those disasters as we have done for the last 50 years.

Now the President wants to take the money out of the Conservation Security Program. That program covers the entire United States of America. Why would you want to take money out of a State such as Pennsylvania that uses conservation money or Ohio or Wisconsin or Minnesota or Iowa or Missouri, taking money out of those States to send to Texas or Oklahoma or Wyoming or Colorado to help the farmers who had a drought? That doesn't make sense. It seems if you are going to have a disaster assistance package, the whole country ought to

pay for it, all of it. When you have an earthquake in Alaska, do we take the money out of one State, just one State, and pay for that—or two States—or do we just take it out of a State that maybe—we take it out of California because they have an earthquake and we send it to Alaska? No.

The entire United States of America, all of our people contribute to make sure that anyone who is hurt by an earthquake in Alaska or California or a flood in Iowa gets compensated and gets help. We had a flood in Iowa in 1993 that devastated our State. We didn't take money out of South Dakota or we didn't take out of Missouri or another State, out of what they get. The whole country came to our assistance.

As I said, I feel sorry for the people who have been hit by hurricanes, and we should help them, but we ought to do it on a national basis and not try to take it out of one pocket, one part to help another. That is not right. It is not right to discriminate against farmers.

One last thing I will say before I yield the floor. We don't take away a community's Federal funds for highways or housing or hospitals to fund civil disaster assistance. In other words, if we have a civil disaster, why should we take the money out of the highway money? If we are going to help Florida out, why don't we take it out of Florida's highway money? Take it out of their housing money? Take it out of their hospital money to pay for their civil disaster? We don't do that. So why should we do it in agriculture, on farmers? Why should we take it out of the farmers' pockets to pay for a disaster? Why don't we take the money out of the highway money going to Florida to pay for the hurricane? Take it out of their hospital money? Take it out of their housing money? We don't do that. We don't do it because it is not the right thing to do. We should not take it from the farm bill either.

I realize those of us who represent farmers and farm States, we get hit often because they say farmers get this and that. I want to point out, as I have pointed out time and time again, since we passed the farm bill in 2002 and the President signed it in May of 2002, we have saved the taxpayers of this country over \$15 billion in less commodity program spending. I think that is a pretty healthy contribution by our farmers and our ranchers to help reduce the deficit of this country. Now they want to take more money out of agriculture to pay for a disaster. It is wrong. That is why I have offered this resolution which basically says:

It is the sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farmer.

It is very simple and straightforward. Madam President, how much time do I have remaining?

The PRESIDING OFFICER (Ms. SNOWE). THE SENATOR HAS 16 MINUTES REMAINING.

Mr. HARKIN. Madam President, I don't know if anyone wants any time. I will be glad to yield to my friend from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I rise today to support the ranking member on the Senate Agriculture Committee in what he is saying. I am in my 18th year in the Senate. Only once before in that entire time have we taken money from other farmers to provide the funds to cover a natural disaster for others. That is just wrong. That is not the way we have operated. We have always dealt with natural disasters through emergency funding because none of us can know who is going to get hit by a natural disaster. None of us can know who is going to have a hurricane or a drought or a freeze.

In my State we have had three of the four. We didn't have hurricanes. We don't get hurricanes in North Dakota. But we have had drought in the southwestern part of the State. I have just taken a drought tour, and it looks like a moonscape. Nothing is growing. It is disastrous. The corn crop is about a foot high. There are no ears in the corn crop.

I go to the northern part of my State, and it is flooded. It is unbelievable. We have a lake in north central North Dakota called Devils Lake. That lake has risen 25 feet in the last 7 years. That lake is now 2½ times the size of the District of Columbia, and it has risen 25 vertical feet, taking up hundreds of thousands of acres.

We, as a Federal Government, have already had to buy out the entire town of Church's Ferry. We have had other towns that are on the brink of being swallowed up. We have spent tens of millions of dollars protecting the town of Devils Lake. We have moved over 600 structures.

All across the northern tier of North Dakota, something very unusual is happening. We have had extraordinarily wet conditions over a prolonged period. The result is 2 million acres they could not even plant this year—2 million acres. That is bigger than the size of the State of Delaware—land that couldn't be planted.

The land that could be planted is now so wet they can't drive the equipment in to harvest the crop. So you drive by the road and it looks like a fabulous crop, like there is a tremendous barley crop out there. It looks like 90- to 100-bushel barley. But you can't get into the land to take it off because the ground is soaked.

I was just at a farmer's home and he pointed up to the top of the rafters in his barn. He said: Senator, that is where the water is going to be 6 months from now, according to the State water commission, because the whole area is flooding.

In the midst of that we had a freeze in early August. Drought, flood, freeze—I have lived in North Dakota all my life, and I have never seen such

a collection of natural disasters. So while I have great sympathy for the people of Florida and Southeastern United States who have suffered hurricanes, and I am prepared with my vote to help them, we would expect the same in return. They are not the only ones who have been hurt. I have tens of thousands of farm families who are wondering now, Is Washington going to help or is Washington going to turn its back?

We have not been on the news. The networks haven't been out there covering this drought. They have not covered this flooding because this is a slow-motion disaster. This is not the kind of thing that makes good television, as the water rises in North Dakota. That doesn't make good television. It is a slow-motion disaster, but it is a disaster nonetheless. People's lives are being devastated.

Always before we have had emergency funding—with one exception in the 18 years I have been here. Always before, when an area suffered natural disasters, we have voted emergency funding to give them some help.

Let me make clear to my colleagues—I have heard some say: If you would have had preventive planning, you wouldn't have any losses because you didn't have to plant the crop. That is not the way it works. You still have your land payment, you still have all your management expenses, and in most cases people put on fertilizer in anticipation of being able to plant. This idea that they don't have expenses is just wrong.

Then I have heard they will get more help than what they have lost. That is just wrong. People have said: They have crop insurance. Crop insurance will make them whole. No.

Crop insurance will not come anywhere close to making them whole; nowhere close. First of all, you have to have a 35-percent loss before you get anything. Then you only get a percentage of your loss over 35 percent. That is not going to make people anywhere close to whole—nowhere close. Even if you take disaster assistance and crop insurance, you are nowhere close to whole. You still have significant losses. That is the fact of the matter.

The disaster assistance we pass in the Senate is desperately needed, and it should not be taken away from other farmers in order to pay for it. We shouldn't take from what they need in order to try to provide assistance for those who have suffered natural disasters. That is not right. It is not fair. It has not been done before, with one exception in the 18 years I have been in the Senate. I had my staff go back and research the whole history. We have never done things that way with one exception.

We should not go down this path of turning our back on people who have suffered natural disasters, whether it is a hurricane, whether it is a flood, whether it is a drought, whether it is a freeze, or some horrific outbreak of dis-

ease. We need to stand ready to reach out with a helping hand.

I thank the ranking member from the State of Iowa, Senator HARKIN, for standing up, fighting back and being very clear about what is at stake here; and to our leader, Senator DASCHLE. The truth is without Senator DASCHLE as our leader, we wouldn't have a prayer of getting the assistance our area desperately needs. That is a fact.

Mr. DASCHLE. Madam President, I thank the distinguished Senator from North Dakota for his very kind words. There are a number of people who deserve great credit, beginning, of course, with our distinguished ranking member on the Senate Agriculture Committee. He has been the most forceful, the most passionate, the most articulate voice for agriculture and I am proud to call him my leader.

He and I were in the room when we wrote this a couple of years ago. I remember so vividly. It was in the room across the hall. This legislation wouldn't even exist were it not for what Senator HARKIN did in the room across the hall as we negotiated these issues and got the commitment from this administration and from our Republican friends that this conservation program would be fully funded. We got a commitment. Almost before the ink was dry, that commitment withered away. It disappeared.

I can understand the frustration of the distinguished Senator, the anger and the disappointment that after being given the commitment over and over again it was virtually the last thing we decided. Only because he held out as aggressively as he did, we finally said yes. OK. If this means getting the farm bill, we will agree to this and we will commit to funding. I was there in the room. I heard it myself, and here we are.

This isn't the first time. This is now the second time he has had to come to the floor.

I know a lot of Senators are inconvenienced, but I must say nobody is more inconvenienced by the doubletalk and the lack of commitment and the willingness to keep their word than our ranchers and farmers who are so desperate for the help Senator CONRAD and Senator HARKIN have so eloquently described.

Senator JOHNSON and I have the same situation in South Dakota. I talked to a rancher in the southwest near Edgemont. He broke down in tears, telling me that he is now going to be forced to sell his herd—a herd he has had all of his life. He said, I have never seen anything like this. His lips curled and he choked up. I felt so sorry for him. He said, But I am not alone. I am at the end of my career.

I worry about those young farmers and ranchers who are just getting started. What are they going to do?

This assistance is critical. But the double standard is so outrageous that I can understand why Member after Member representing farmer and

rancher after farmer and rancher is coming to the floor to express their outrage and indignation.

You talk about heroes. I thank my colleague from South Dakota for making the effort he did so gallantly. Senator JOHNSON offered an amendment to say let's treat this disaster assistance the way we are treating all other disaster assistance. I understand it is about \$11 billion. Let us treat it exactly the same. He made a passionate defense of that argument and lost on a 6-to-5 vote, as I understand it. It was a party-line vote.

Mr. JOHNSON. Madam President, may I direct a question to my colleague?

Mr. DASCHLE. I would be happy to yield for a question from the Senator from South Dakota.

Mr. JOHNSON. I want to report to the body that I have just come from the Military Construction Subcommittee conference markup. Oddly enough, military construction—the way things work around here—is now the vehicle for bringing up disaster relief to Florida and on the Northern Plains. We were able to obtain nearly a \$3 billion drought relief package on that bill, thanks to Senator DASCHLE in large part, and Senator HARKIN, of course, with his leadership. But I don't believe it would be on the floor at all were it not for Senator DASCHLE's leadership.

That drought relief passed with a unanimous bipartisan vote in the Senate earlier this year. Yet when it came back to the Military Construction Subcommittee as part of this disaster aid we are adding, it had this very convoluted offset that is stretched out for over 10 years.

I have to ask the leader, Senator DASCHLE, who has been through this and has championed agriculture for so many years as an extraordinary representative and as a leader on rural and agricultural issues, if there is any logic the leader can discern why disaster relief for hurricane victims is emergency funding, and disaster relief as it turns out now for farmers and ranchers suffering from drought is cannibalized out of the agriculture budget for the rest of the decade. What logic is there to that? What fairness is there to that kind of approach to this disaster relief bill that is now likely to pass? We are grateful for disaster relief, but this uneven treatment between farmers and hurricane victims strikes me as sadly peculiar and an unfortunate precedent that rural people will suffer from for years to come.

I would be interested in any response, given the great experience and leadership Senator DASCHLE has afforded rural America for all of these years, whether he sees any logic to this kind of separate treatment of farmers versus others in America today.

Mr. DASCHLE. I thank my dear friend from South Dakota for his question and for his kind words.

I simply say there is no logical conclusion one can draw from this except

that there are those in the administration and apparently here in Congress who believe farmers and ranchers ought to be subject to a double standard; that they aren't as poor as other victims and the other people who have experienced disasters of other kinds.

For some reason, this administration has minimized the losses in agriculture almost from the beginning. As the Senator so well knows, because he was right in the middle of the fight 2 years ago, we tried to persuade the administration to help farmers and ranchers with \$6 billion disaster assistance. That was actually passed here on the Senate floor. They sat on it. They stalled it. They did everything they could to prevent it. Ultimately, all we got before the end of the year was about \$1 billion—\$5 billion less. It is no surprise. This isn't something new for this administration or some of our colleagues in the Congress.

This is yet another illustration and pattern of demonstration of how minimally they are prepared to support agriculture and our farmers and ranchers. It is a double standard. It is a shell game. They are telling farmers and ranchers we are going to take money out of your right-hand pocket and put it in your left-hand pocket, and we want you to feel good about it. There is no net additional revenue to be provided to agriculture as a result of this disaster relief. We are simply taking it out of their right pocket and putting it in their left pocket.

I can't imagine—and Senator CONRAD and others have noted how a rancher or a farmer could be anything but offended—that somebody would insist farmers and ranchers pay for their own grass and drought assistance, disaster assistance and flood assistance, when at the very same time, simultaneously, we are providing meaningful new assistance to the victims of hurricanes, which we all support.

The double standard, the shell game, the extraordinary intransigence on the part of those who are opposing the Johnson amendment and opposing our efforts to make farmers and ranchers whole is inexplicable. There is no logic. I appreciate very much his words.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. There is 8 minutes.

Mr. HARKIN. We all need leaders to organize us, to inspire us, to get us moving in the right direction. Our distinguished leader, Senator DASCHLE from South Dakota, was kind enough to say good things about me with regard to the Agriculture bill, but we would never have gotten it together had it not been for his leadership. We, on this side of the aisle, all rely on his inspiration and his leadership, pulling us together. Nowhere is that more evident than our fight for farmers and ranchers and people who live in small

towns and communities all over America.

I thank my good friend and my leader from South Dakota for what he has done for the people who live in the little towns such as my home town, Cummings, IA, with 150 people, for the farmers and ranchers of Iowa, South Dakota, and all over this country. Senator DASCHLE has been their voice and their leader, as he has been our leader. I daresay we wouldn't have half of the things we have for agriculture today had it not been for Senator DASCHLE, in making sure we had a good farm bill 2 years ago.

As Members can tell today, his passion is still there. I thank the good farmers and ranchers and rural people of South Dakota for having him here and having him as our leader.

Madam President, I ask that an editorial from the Des Moines Register of October 9 be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARKIN. I will read one sentence from the editorial:

"The reality of the situation is that there will be no disaster money before we go home unless we provide budget offsets," said the chairman of the House Agriculture Committee, Rep. BOB GOODLATTE, R-Va.

Easy for him to say; farmers in his State are covered by the hurricane disaster assistance package. He doesn't have to worry about whether it is emergency money.

What kind of selfishness is that around here? If you are from a State where you get the hurricane disaster assistance, to heck with everybody else?

The Des Moines Register editorial said:

Cutting farm programs to pay for the assistance would amount to taking money from growers in the Midwest and giving it to producers in drought-stricken areas of Montana, the Dakotas and other Plains states.

I want to help those farmers. They should be helped. But as Senator DASCHLE said, they should not take it out of one pocket and put it in another.

I also ask that a letter from a number of different farm groups opposing the using of farm bill conservation money for disaster assistance be printed in the RECORD following my remarks. This is in opposition to the President's position.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HARKIN. I ask that a letter from a number of conservation groups be printed in the RECORD at the conclusion of my remarks, asking that money not be taken out of the conservation title.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HARKIN. I ask unanimous consent that at the conclusion of my remarks a letter to a number of Rep-

resentatives on the House side from a number of conservation groups also be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. HARKIN. Lastly, I have heard the argument that drought is long term; there is some kind of climate change, but for the western part of the United States, which has had droughts for the last 4 or 5 years, we cannot continue to give disaster money if it is going to be a drought one year after another.

Guess what. Florida sits in hurricane alley. They have had hurricanes going back for 100 years. Guess what. Hurricanes are going to hit Florida next year and the year after and the year after. Should we say we cannot give disaster money to Florida because this is a long-term type thing? That is what I heard about drought assistance because we have had it for 5 years. Because we have been hit by 5 years of drought, that is long term and therefore we cannot help you?

Maybe we ought to take a look at hurricane alley. Maybe they shouldn't get help because they will get hit by another hurricane next year or the year after. We don't get hit by hurricanes in Iowa. They do not bother us. But we get hit by things such as tornados and hail damage and drought and, yes, floods.

Lastly, this bill, in helping the drought-stricken farmers—and my friend from North Dakota knows this very well—it only covers 1 year. We have had a drought for 4, 5, or 6 years. Farmers who suffered crop losses in both 2003 and 2004 will get to pick 1 year, either 2003 or 2004, you pick one, that is all the disaster assistance you get. It does not cover 7 years; it covers 1 year.

I wanted to clear this up. I hear rumors and misconceptions around here. I wanted to make the record clear that, yes, we have had some problems—such as tornados. Oklahoma gets hit by tornados, and Kansas and Nebraska and Iowa. We have had a lot. We will next summer because we are in tornado alley. Does that mean if a tornado strikes we should not get any disaster money because we get hit by tornados every year? No. Neither should the farmers in the Dakotas or Montana or places that have a drought right now, nor should they be penalized because they have been hit by some dry weather for a few years.

EXHIBIT 1

[From the Des Moines Register, Oct. 9, 2004]

MIDWEST FARMERS MAY LOSE OUT WITH DISASTER AID

WASHINGTON, DC.—Farmers hit by a succession of crop losses hoped an election year would bring some extra cash from the government.

However, House Republicans are pushing for cuts in farm programs to pay for a \$3 billion package of farm-disaster assistance, and agriculture groups may drop their support for the aid.

Cutting farm programs to pay for the assistance would amount to taking money from growers in the Midwest and giving it to producers in drought-stricken areas of Montana, the Dakotas and other Plains states. The prime target for the cuts is the popular Conservation Security Program written by Sen. TOM HARKIN.

"If disaster assistance comes out of the farm bill, then we oppose disaster assistance," said Mary Kay Thatcher, a lobbyist for the American Farm Bureau Federation.

Democrats accused Republicans of hypocrisy. The White House is pushing Congress to pass special emergency assistance for Florida hurricane victims, including farmers there, without demanding spending cuts. Florida is a key state in the presidential race. "It is not right to treat farmers in one part of this country different than farmers in another," Harkin said.

The House passed legislation earlier in the week that would pay for the drought assistance by capping the cost of the Conservation Security Program.

"The reality of the situation is that there will be no disaster money before we go home unless we provide budget offsets," said the chairman of the House Agriculture Committee, Rep. Bob Goodlatte, R-Va. Friday, lawmakers were looking into trimming things other than the Conservation Security Program because of technical problems with targeting the conservation payments, congressional aides said. Harkin, a Democrat, pledged to slow some must-pass bills unless Republicans backed off making the cuts. Friday afternoon, he blocked the Senate from considering amendments to an intelligence-reform bill.

The Senate passed a version of the drought aid paid for by adding to the federal budget deficit. Farmers could get payments for losses in either 2003 or 2004.

Iowa farmers would likely receive about \$200 million to \$250 million in disaster payments, primarily to cover damage to soybean fields, according to Harkin's staff. The Iowa Farm Bureau has estimated damage from the 2003 drought at \$750 million.

The Conservation Security Program is designed to reward farmers for practices that prevent soil erosion and other environmental problems.

Some 2,188 farms, including 290 in Iowa, were signed up for the program this year. Enrollment was limited to 18 watersheds, or river drainage areas. The National Corn Growers Association never endorsed the disaster aid package, partly out of concern that it mean reductions in other farm spending, said Jon Doggett, a lobbyist for the group.

EXHIBIT 2

October 7, 2004.

Hon. TED STEVENS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC

Hon. THAD COCHRAN,
Chairman, Subcommittee on Appropriations, U.S. Senate, Washington, DC

Hon. ROBERT BYRD,
Ranking Member, Committee on Appropriations and Subcommittee on Homeland Security, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN AND RANKING MEMBER: The House and Senate have approved virtually identical legislation to provide vitally important financial assistance to assist farmers and ranchers who have suffered devastating crop losses due to hurricanes and drought. Importantly, the provisions approved by the House and Senate allow producers to choose to receive assistance for either 2003 or 2004 crop losses. And, since the legislation is similar to previous disaster programs, USDA should be able to deliver

the assistance in a timely and cost efficient manner.

We understand that the free-standing legislation passed by the House on October 6 may serve as the House position in the conference on FY05 funding for Homeland Security. We are concerned that the House provision providing assistance for agricultural losses includes a funding offset, which reduces funding for a conservation program authorized in the 2002 farm bill. The Senate passed provision, which is included in the Homeland Security bill does not include an off-set. As you know, farm and commodity organizations have consistently opposed opening the farm bill, which is carefully balanced and has provided important, predictable financial stability for farmers, ranchers and rural Americans. While the House passed provision includes an off-set for a portion of the agriculture assistance, the other assistance was approved with an emergency designation and the House overwhelmingly rejected an amendment that would have offset the entire bill.

The purpose of this letter is to respectfully urge the conferees to retain the disaster assistance provisions as part of the Homeland Security funding but to eliminate the requirement that a portion of the funds for agricultural disaster assistance be off-set by a reduction in conservation programs or any other programs authorized by the 2002 farm bill. We believe the delivery of much needed assistance to farmers and ranchers suffering losses due to drought, hurricanes and other adverse weather is critically important to those who have suffered devastating losses, but we also believe preservation of the provisions of the 2002 farm law is important to all farmers and ranchers. We would also note that expenditures under the 2002 farm bill have been substantially less than that projected at the time of passage. Unfortunately budget rules do not allow use of those funds for other purposes, but we believe this should be a favorable factor in the consideration of our request.

As always, thank you for your consideration of our views and your leadership on matters critical to the U.S. agricultural community.

Sincerely,

Alabama Farmers Federation
American Corn Growers Association
American Farm Bureau Federation
American Soybean Association
Ducks Unlimited
Georgia Peanut Commission
Independent Community Bankers of America
National Association of Farmer Elected Committees
National Association of State Departments of Agriculture
National Association of Wheat Growers
National Barley Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Farmers Organization
National Farmers Union
National Grain Sorghum Producers
National Milk Producers Federation
Southern Peanut Farmers Federation
National Sunflower Association
Soybean Producers of America
US Canola Association
USA Dry Pea & Lentil Council
USA Rice Federation
USA Rice Producers Association
Women Involved in Farm Economics.

EXHIBIT 3

AMERICAN FLY FISHING TRADE ASSOCIATION, AMERICAN LAND CONSERVANCY, ARCHERY TRADE ASSOCIATION, BOWHUNTING PRESERVATION ALLIANCE, CONGRESSIONAL SPORTSMEN'S FOUNDATION, DUCKS UNLIMITED, INTERNATIONAL HUNTER EDUCATION ASSOCIATION, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES, IZAAK WALTON LEAGUE OF AMERICA, ORION-THE HUNTERS INSTITUTE, PHEASANTS FOREVER, SAND COUNTY FOUNDATION, TEXAS WILDLIFE ASSOCIATION, THEODORE ROOSEVELT CONSERVATION PARTNERSHIP, THE WILDLIFE SOCIETY, WILDLIFE FOREVER, WILDLIFE MANAGEMENT INSTITUTE,

October 7, 2004.

Hon. BILL FRIST,
Hon. TOM DASCHLE,
Hon. TED STEVENS,
Hon. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

Hon. DENNIS HASTERT,
Hon. TOM DELAY,
Hon. NANCY PELOSI,
Hon. BILL YOUNG,
Hon. DAVID OBEY,
U.S. House of Representatives, Washington, DC.

DEAR SENATE AND HOUSE LEADERSHIP. The above listed conservation and sportsmen's organizations, which represent a diverse spectrum of interests with a combined membership of millions, stand together urging you to reject any attempt to offset the costs of the disaster package's assistance to U.S. farmers and ranchers with cuts to the 2002 Farm Bill's conservation assistance programs. We fully support a disaster assistance package that is appropriately designated by Congress as emergency spending.

Conservation funding was critical to securing passage of the 2002 Farm Bill. These conservation programs have become win-win solutions for landowners and wildlife, while at the same time guard against economic impacts from droughts and floods. Each of the programs is oversubscribed, with farmer demand continuing to outpace available funding.

We strongly oppose the use of conservation program spending as an offset for disaster assistance. If you have questions about this issue, please contact Barton James (Ducks Unlimited) at (202) 347-1530.

Thank you very much for your time and consideration of this matter.

EXHIBIT 4

OCTOBER 5, 2004.

Hon. C.W. BILL YOUNG,
Chairman, House Committee on Appropriations, H-218 Capitol Building, Washington, DC

Hon. TED STEVENS,
Chairman, Senate Committee on Appropriations, S-128 Capitol Building, Washington, DC

Hon. THAD COCHRAN,
Chairman, Subcommittee on Homeland Security, Senate Committee on Appropriations, Dirksen Senate Office Building Rm-135, Washington, DC

Hon. MARTIN OLAV SABO,
Ranking Member, Subcommittee on Homeland Security, House Committee on Appropriations, Rayburn HOB B-307, Washington, DC

Hon. DAVID OBEY,
Ranking Member, House Committee on Appropriations, 1016 Longworth HOB, Washington, DC

Hon. ROBERT C. BYRD,

Ranking Member, Senate Committee on Appropriations, S-112 Capitol Building, Washington, DC

Hon. HAROLD ROGERS,
*Chairman, Subcommittee on Homeland Security,
House Committee on Appropriations, Ray-
burn HOB B-307, Washington, DC*

DEAR APPROPRIATIONS CONFEREES: As you conference the fiscal year 2005 Homeland Security appropriations bill and consider the Senate-passed agricultural disaster package, we urge you to reject any attempt to offset the costs of the disaster package with cuts to the 2002 Farm Bill's conservation assistance programs.

Conservation funding was critical to securing passage of the 2002 Farm Bill. Conservation programs in the 2002 Farm Bill provide farmers and ranchers with important financial assistance while addressing the nation's urgent natural resource and environmental needs. These programs guard against heightened natural resource and economic impacts from droughts and floods, and thus the long-term costs of weather related disasters, by improving soil and water quality and conservation. Each of the programs is oversubscribed, with farmer demand continuing to outpace available funding.

We strongly oppose the use of conservation program spending as an offset for the disaster package. In our view, it is unfair to single out agricultural disasters for offsets and unwise to single out conservation as the potential offset.

Thank you for considering our views.

Sincerely,

American Farmland Trust
American Rivers
Chesapeake Bay Foundation
Defenders of Wildlife
Environmental Defense
National Association of Conservation Districts
National Catholic Rural Life Conference
National Wildlife Federation
Natural Resources Defense Council
Sierra Club
Soil and Water Conservation Society
Sustainable Agriculture Coalition
Union of Concerned Scientists.

Mr. HARKIN. How much time is remaining?

The PRESIDING OFFICER. There is 1 minute 40 seconds.

Mr. HARKIN. Whatever time I have remaining I would be glad to yield.

Mr. DORGAN. Let me, in the few moments remaining, thank the Senator from Iowa. Yesterday, someone asked him what he was doing, and he said: I am supporting my farmers.

The fact is, farmers in his State, our State and others, have been hit by weather-related disasters. You ought not treat farmers in different parts of the country in different ways. If you are going to provide disaster assistance to people in one part of the country, those farmers who have been hit with weather-related disasters in other parts of the country deserve to be helped as well.

This is a case of the Government saying to farmers during a tough period, you are not alone; we are here to help you. This is not a case of farmers begging to be helped. It is a case, for example, in our part of the country, where torrential rains wiped out the opportunity for farmers to even plant a crop on 1.7 million acres. Think of that. There were 1.7 million acres that

could not be planted. These are farmers that will lose their farms if we do not offer some help.

The Senator from Iowa has been doing something very simple and powerful in the Senate. He is standing up for family farmers.

My colleague from North Dakota, Senator CONRAD, myself, and others are insistent we provide disaster relief and do so in the right way.

What is being done in the conferences, back and forth, the ping-ponging of inadequate proposals, proposals that are unusual, is not fair.

I commend the Senator from Iowa for being unwilling to sit by idly, silently, and allowing this to happen. I stand with him, as does my colleague, Senator CONRAD, and many others.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. On behalf of Senator BINGAMAN, I ask permission to withdraw from the list the Bingaman-Domenici amendment as listed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I yield 5 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AMENDMENT NO. 4027

Mr. VOINOVICH. Madam President, later on today we will be discussing an amendment submitted by Senator NICKLES. The amendment's alleged purpose is to clarify the shared jurisdiction of the congressional budget process between Governmental Affairs and the budget situation that grew out of the Budget Committee and the modern budget process of 1974.

Senate committees rarely share jurisdiction, and joint referral of legislation is accomplished by unanimous consent. Today, anything that deals with the budget either coming out of the Governmental Affairs Committee or coming out of Budget has to be referred to the Governmental Affairs Committee and within 30 days some action has to be taken so there is a joint referral.

This amendment would eliminate that and say that all of the budgetary process is within the jurisdiction only of the Budget Committee and would also require that instead of the nominations for the Director of the Office of Management and Budget and the deputy director being the sole jurisdiction of the Governmental Affairs Committee, that would be a joint jurisdiction. In other words, the Presidential appointee to Director of Budget and Management, Deputy Director, and other people, would have to come to the Governmental Affairs Committee and also go to the Budget Committee for their approval.

I think one of the things we are trying to do here is to streamline that whole process, that we have too many people who are being, frankly, nomi-

nated, and too much advice and consent.

One of the things in an amendment to the Homeland Security Act that we were able to get done was the provision that says we are going to ask the administration to come back with recommendations on how they can reduce the number of people who are sent to the Senate for advice and consent to streamline the process.

This amendment would make this Presidential appointment process in regard to the Director of Budget and Management and the Deputy Director much more complicated than it is today. I would also argue—with due respect to the expertise that is on the Budget Committee—that this process has not been looked at since 1974.

As a member of the Governmental Affairs Committee and the oversight of Government management in the Federal workforce, I have been concerned that we have not looked at that process since 1974—that we have discussed the feasibility of going to a 2-year budget. There are many things, in my opinion, that this body should be doing, and if it were solely within the jurisdiction of the Budget Committee, it might not get done. The Governmental Affairs Committee looks at the big picture.

I would also argue that too often in the Office of Budget and Management, there is no "M" in OMB. I am pleased to say that this administration has undertaken some very aggressive management responsibilities. I, quite frankly, think they would not have undertaken those management responsibilities had it not been for the fact that they had to be confirmed by the Governmental Affairs Committee of the U.S. Senate.

I know the relationships that I have built personally with the Director of the Office of Budget and Management; Sean O'Keefe, who was the Deputy Director, and now Director Josh Bolten, have really accrued to the benefit of our country in terms of improving the management of Government.

So what I am trying to say is the budget process is important not only to the Budget Committee but the budget process is important to the entire country and to the operation of Government because it has such a large impact on the whole operation of Government.

I respect the chairman of the Budget Committee, but as one who has been concerned about modernizing our procedures, I believe this would not promote what is in the best interest of the Senate or, for that matter, our country.

I ask unanimous consent to have printed in the RECORD the human capital changes that have occurred since 1999 that have come out of the Governmental Affairs Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATOR GEORGE V. VOINOVICH, OHIO—
AN AGENDA TO REFORM THE FEDERAL
WORKFORCE: ACCOMPLISHMENTS

Senator Voinovich has made identifying and developing solutions to the federal government's strategic human capital challenges his highest priority for his Subcommittee on Oversight of Government Management. He has held 15 hearings on the subject, spoken at numerous public conferences, and was a key participant in the Harvard University John F. Kennedy School of Government Executive Sessions on the Future of the Public Service in 2001-2002. He has brought together the best minds in academia, government and the private sector to address these issues and developed a forward-looking legislative agenda. Taken together, the legislation he has sponsored and cosponsored represents the most significant governmentwide changes to the federal civil service system since passage of the Civil Service Reform Act of 1978.

Legislation sponsored by Senator Voinovich enacted into law:

Department of Defense Civilian Workforce Reshaping Authority as part of the FY 2001 Defense Authorization, became law on October 30, 2000.

Several major provisions of S. 2651, the Federal Workforce Improvement Act of 2002, were included in the Homeland Security Act of 2002, Public Law 107-296, November 25, 2002. Its most important provisions: agency chief human capital officers (at the 24 largest federal agencies); an interagency chief human capital officers council (codifying the Human Resources Management Council); an OPM-designed set of systems, including metrics, for assessing agency human capital management; inclusion of agency human capital strategic planning in annual performance plans and program performance reports required by GPRA; reform of the competitive service hiring process (use of a category ranking system instead of the Rule of Three); permanent extension, revision, and expansion of voluntary separation incentive pay and voluntary early retirement ("buyouts" and "early-outs");

S. 926, the Federal Employee Student Loan Assistance Act, Public Law 108-123, November 11, 2003. The law raises to \$10,000 and \$60,000, respectively, the annual and aggregate limits of student loan repayment federal agencies may offer employees as incentives.

S. 1683, the Federal Law Enforcement Pay and Benefits Parity Act of 2003, Public Law 108-196, December 19, 2003. The law required OPM to conduct a study of federal law enforcement compensation and classification to inform reform efforts. It was submitted to Congress on July 16, 2004.

S. 610, NASA Workforce Flexibility Act of 2004, Public Law 108-201, February 24, 2004. The law provides new personnel flexibilities to the National Aeronautics and Space Administration to recruit and retain a technology savvy workforce for NASA's high-tech mission.

H.R. 2751, GAO Human Capital Reform Act of 2004, Public Law 108-271, July 7, 2004. H.R. 2751 was the House companion to Senator Voinovich's bill S. 1522, which passed the Senate on November 24, 2003. It provides several new personnel flexibilities to the new U.S. Government Accountability Office.

Legislation cosponsored by Senator Voinovich enacted into law:

The Homeland Security Act of 2002, Public Law 107-296, November 25, 2002, allowed the new department to design a new personnel system for its 170,000 employees to meet its mission needs.

The National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, No-

vember 24, 2003, includes the National Security Personnel System (NSPS). Senator Voinovich had a role in drafting the Senate version of NSPS, S. 1166. NSPS will provide significant personnel flexibilities to the Department of Defense similar to those at the Department of Homeland Security. In addition, this Act contains a provision that alleviates pay compression in the Senior Executive Service. Senator Voinovich had introduced a separate bill, S. 768, to accomplish this.

Legislation sponsored by Senator Voinovich currently under Congressional consideration:

S. 129, Federal Workforce Flexibility Act of 2003, was passed by the Senate on April 8, 2004, and it contains additional governmentwide human capital reforms. The House Committee on Government Reform considered and reported S. 129 to the full House on June 24, 2004. Senator Voinovich understands that the bill should pass the House the week of October 4th and return to the Senate for final passage.

Mr. VOINOVICH. I would like to emphasize for my colleagues how important it is that this jurisdiction in terms of the Director of Budget and Management and the Deputy Director remains in the Governmental Affairs Committee.

I would like to make one other point; that point is, the jurisdiction of our committee has been stripped out for the last couple of days. So I just urge my colleagues—I am going to ask for a vote. I think it is important to the management of our country.

I appreciate the opportunity to speak and yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator's time has expired.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, for my friend to say the jurisdiction of the committee has been stripped out in the last few days, he should come in contact with reality. It simply is not true. How many times people come and say that does not make it true. The governmental affairs/homeland security committee is going to be one of most powerful committees in the Congress. Last year, as I understand, they had about 900 bills referred to them. This next year, it will probably be 3,000 bills referred to them. They have jurisdiction over wide-ranging matters. A few little things have been taken from Governmental Affairs, but they have been given a truckload of stuff.

I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, first of all, I thank the Senator in Nevada for his comments. He is exactly right. For anybody to suggest Governmental Affairs has had their jurisdiction reduced here, I mean, come on. Governmental Affairs has had their jurisdiction dramatically increased.

Mr. NICKLES. Mr. President, the amendment I am offering today with my ranking member, Senator CONRAD, would consolidate jurisdiction for the congressional budget process within the Senate Committee on the Budget and establish shared jurisdiction with

the new Committee on Homeland Security and Governmental Affairs over the nomination and confirmation of the Director of the Office of Management and Budget. The amendment would preserve the Government Affairs Committee's jurisdiction over management and accounting measures.

Under current Senate rules, jurisdiction over budget process matters is shared with the Committee on Governmental Affairs, a situation that grew out of the creation of the Budget Committee and the modern budget process in 1974.

This shared jurisdiction is unique in the Senate, where committees rarely share jurisdiction, and where joint referral of legislation is only accomplished by unanimous consent.

Since 1977, the Budget and Governmental Affairs Committees have received joint referral for legislation affecting the budget process pursuant to a unanimous-consent agreement. Under that UC, if one committee acts on a bill the other committee must act within 30 days or be automatically discharged. Our amendment would supercede this consent agreement.

We all know the Federal budget process is very complicated. The expertise on this subject clearly resides in the Budget Committee, and Senator CONRAD and I believe that is where these issues should be addressed.

Over the years, the Governmental Affairs Committee has done little work on the budget process. Although the current jurisdictional situation has not necessarily created significant problems, we believe it is simply unnecessary to have two committees involved in these issues.

The Governmental Affairs Committee has a very broad and expansive jurisdiction which the resolution being considered would expand even further to matters of homeland security.

Senator CONRAD and I believe consolidating jurisdiction over budget process issues within the Budget Committee would eliminate confusion and guarantee that this work is performed by those with the expertise.

I encourage my colleagues to support our amendment.

Mr. CONRAD. Mr. President, I rise today to speak on behalf of the amendment from the chairman of the Budget Committee, Senator NICKLES.

Mr. President, the Senator from Ohio just got it wrong, what the amendment of the Senator who is the chairman of the Budget Committee does. We do not take the jurisdiction of Governmental Affairs on management issues at all, not at all. That is not what the amendment does.

What the amendment does do is end the duplication of the jurisdiction of the committees on budget process issues. I would submit to my colleagues, it does not make any sense any longer, after 30 years, for Governmental Affairs and Budget to have joint jurisdiction on budget process issues.

The reason they have that joint jurisdiction is because Governmental Affairs wrote the Budget Act. There was no Budget Committee, so at that time they had expertise that the Budget Committee simply did not have, so they were included on jurisdiction on budget process issues.

Well, 30 years have passed. The expertise on these issues is on the Budget Committee. It makes no sense in any management sense to have joint jurisdiction on budget process issues—not on the management issues. The management issues are retained by Governmental Affairs, as they should be. But budget process issues, as the chairman of the Budget Committee has suggested in his amendment, ought to be the jurisdiction of the Budget Committee.

Second, it makes no earthly sense for the nominee to be the Budget Director only to go before the Governmental Affairs Committee. That is what happens now. I think my colleagues would be stunned—I must say, I was very surprised, serving on the Budget Committee—that the Director of the Budget does not come before the Budget Committee. What sense does that make?

The amendment of the chairman of the Senate Budget Committee, Senator NICKLES of Oklahoma, does not expand the jurisdiction of the Senate Budget Committee. It simply eliminates the overlap in jurisdiction between the two committees on the narrow issue of budget process issues.

The expertise on budget process issues, on pay-go, on discretionary caps, on oversight of budget agreements, does not reside with the Committee on Governmental Affairs; it resides in the Budget Committee. We ought to clean up this overlap that has existed for 30 years that started for a good reason—because the Committee on Governmental Affairs wrote the Budget Act because there was no Budget Committee. But now there is a Budget Committee. It has been in existence 30 years. It ought to have jurisdiction over budget process issues. That just makes common sense.

Who could possibly defend the notion that a Budget Director should not come before the Budget Committee for confirmation? It makes no earthly sense.

The amendment of the Senator from Oklahoma is entirely reasonable. It is rational. It improves the operations of both committees. It does not take jurisdiction to the Budget Committee; it simply reduces the common jurisdiction that currently exists between Governmental Affairs and the Budget Committee on the narrow issue of budget process.

Mr. VOINOVICH. Will the Senator yield for a question?

Mr. CONRAD. I would be happy to yield after this statement.

And it gives to the Budget Committee the right to hear from the Office of Management and Budget, the man who is named or the woman who

is named Budget Director in the confirmation process. That just makes common sense.

I would be happy to yield.

Mr. VOINOVICH. The question I would like to ask is, Has the procedure that we now have in terms of the appointment—and this has been for 30 years—diminished the effectiveness of the Budget Committee, because of the fact that they have not participated in the nomination of the Budget Director?

Mr. CONRAD. I believe the answer simply has to be yes. It makes no earthly sense for the person who is named to be the budget director of the United States not to come before the Budget Committee. What sense could that possibly make?

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I apologize to the Senator from Ohio. We are running out of time, and the distinguished senior Senator from Texas has an amendment she needs to be able to describe.

AMENDMENT NO. 4015 TO AMENDMENT NO. 3981

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I call up amendment No. 4015.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 4015.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Purpose: To implement responsible subcommittee reorganization in the Committee on Appropriations)

In section 402, strike the second sentence and insert the following: "The Committee on Appropriations shall reorganize into 13 subcommittees not later than 2 weeks after the convening of the 109th Congress."

AMENDMENT NO. 4042 TO AMENDMENT NO. 4015

Mrs. HUTCHISON. Mr. President, I call up a second-degree amendment No. 4042.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 4042 to amendment No. 4015.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To implement responsible subcommittee reorganization in the Committee on Appropriations)

Strike "not later than 2 weeks" and insert "as soon as possible"

Mrs. HUTCHISON. Mr. President, I ask unanimous consent for adoption of the second-degree amendment.

Mr. REID. I object.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the second-degree amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4042) was agreed to.

Mrs. HUTCHISON. Mr. President, my amendment simply keeps what the Senate has said it wants, and that is an intelligence subcommittee on Appropriations, and it keeps the 13 subcommittees of Appropriations. It says the Appropriations Committee will organize into 13 subcommittees with the intelligence subcommittee as soon as possible after the convening of the 109th Congress.

All my amendment does is keep the Appropriations subcommittees at the same number, making sure there is one intelligence subcommittee, but it does not require the merging of Defense and Military Construction.

It may be that when the Appropriations Committee looks at all of the options for the making of 13 subcommittees, that that will happen, but I think the Appropriations Committee should be the one that makes the recommendations to the Senate. We do not have to rush to make this decision for the Appropriations Committee.

According to the CRS, eliminating a subcommittee through a measure on the Senate floor is unprecedented. In more than 200 years, the CRS says, the Senate has never eliminated a subcommittee through floor action without the committee bringing it to the floor. The Senate has created subcommittees, as with the Governmental Affairs Subcommittee on Investigations in 1952, but not eliminated subcommittees. Merging subcommittees to create room for the new one may be the right thing to do, but the floor is the wrong place to do it.

What is proposed today will set a precedent that could impact every committee by pulling the ability of the committee to organize itself and having that agreed to by the Senate. This is a precedent that should concern every committee. It should concern the majority and the minority. There is no reason to make this decision now.

Also, these changes must be made in conjunction with the House. The House Appropriations subcommittees and the Senate Appropriations subcommittees should match so that when we conference, we will have a finite subcommittee that deals with the same issues; otherwise, there could be many problems with the appropriations process that would complicate an already complicated process.

The House has not made any decisions about reorganizing itself on the Appropriations Committee. The wise thing for the Senate to do would be to create the new intelligence subcommittee of the Appropriations Committee, determine that there will be 13 subcommittees but require the Appropriations Committee to do the reorganization, after which the Senate would

be asked to agree. That is all my amendment does.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. REID. Mr. President, I ask unanimous consent to speak for 2 minutes in opposition to the amendment offered by the Senator from Texas.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. REID. Mr. President, I serve on the Appropriations Committee with the distinguished Senator from Texas. She certainly is one of the finest Senators here. But on this issue I disagree with her. In the underlying legislation before the Senate, there has been a consolidation of Defense appropriations and Military Construction. This certainly makes sense. The subject matter is related to the same players, same departments, military, same basis. It does not make sense to make the artificial divide for Construction. I have served as chairman of the Military Construction Subcommittee, and I enjoyed it, but I always wondered why it was a separate subcommittee.

It does, however, make sense to pull intelligence from defense and make it a separate subcommittee. That is what we have done. We have talked to experts, and we think this is the best way to do it. We should keep this plan intact. It is the right thing to do.

The legislation we now have before the Senate is a good package. I don't think it should be splintered with trying to have the Committee on Appropriations rearrange what we have done.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 2½ minutes remaining.

Mr. McCONNELL. I yield the remaining time that I have to the Senator from Ohio.

AMENDMENT NO. 4027

Mr. VOINOVICH. Mr. President, I would just like to emphasize again that the current situation is one that is working. Unless one can show that it is not working in terms of the authority or the jurisdiction of the Governmental Affairs Committee, I would argue, why change it.

Secondly, this amendment would then subject the appointees of the Director of the Office of Management and Budget, the Deputy Director, and other people to jurisdictions in two committees, which would make the appointment process longer than it is today in an area that is particularly important to the President. What he wants to do immediately is to get his director of budget on board.

Secondly, I think we need to point out that the budget process is not just the jurisdiction of the Budget Committee. Under this amendment, if I want to put a bill in, for example, to

reform the budget process to 2-year budgets, to require that the budget include a presentation on the accrued liabilities of the United States and, for that matter, go back and look at the Budget Act of 1974, which should be updated, that bill would have to go to the Budget Committee. If the members of that committee were unhappy with that, if they like the process of 1-year budgets because of the fact that they like to take a bite out of the apple each year, that bill would be dead.

Under the current situation, if someone has an idea of improving the budget process that impacts not only the budget but the entire operation of Government, they can bring it to the Governmental Affairs Committee. We could handle that legislation, and then that legislation would have to be referred to the Budget Committee for their consideration. The fact is, this is too large a responsibility just to put it within the jurisdiction of the Budget Committee. I argue that it makes a lot of sense to leave the situation as it is unless somebody can tell me that it is not working.

I will say one other thing: Our Government's biggest problem today is management. Having jurisdiction of the Office of Management and Budget in Governmental Affairs has given this Senator a lot of leverage to get this administration to do some things that are important for the country.

I thank the Chair.

Mr. REID. Mr. President, I would like the record to reflect that when I spoke regarding Senator VOINOVICH earlier, I said there were approximately 900 bills referred to the Governmental Operations Committee. I misspoke. It is 300. I want the record to reflect the proper number.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the first vote occur on the Nickles amendment, to be followed by a vote on the Hutchison amendment.

VOTE ON AMENDMENT NO. 4041

Mr. REID. Mr. President, I believe we need the yeas and nays on the Nickles amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. All time has expired.

The question is on agreeing to the Nickles second-degree amendment No. 4041.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAIG), the Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. CORNYN) would vote "yea."

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH), the Sen-

ator from California (Mrs. BOXER), the Senator from Louisiana (Mr. BREAUX), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 35, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—50

Allard	Domenici	Lincoln
Baucus	Dorgan	Mikulski
Biden	Ensign	Murray
Bingaman	Enzi	Nelson (FL)
Bond	Feingold	Nelson (NE)
Bunning	Feinstein	Nickles
Burns	Graham (FL)	Reed
Cantwell	Grassley	Reid
Chafee	Gregg	Santorum
Clinton	Harkin	Schumer
Conrad	Inouye	Sessions
Corzine	Johnson	Shelby
Crapo	Kennedy	Smith
Daschle	Kohl	Stabenow
Dayton	Kyl	Thomas
Dodd	Landrieu	Wyden
Dole	Leahy	

NAYS—35

Akaka	Fitzgerald	McCain
Alexander	Frist	McConnell
Allen	Hagel	Murkowski
Bennett	Hatch	Pryor
Brownback	Hutchison	Roberts
Byrd	Inhofe	Rockefeller
Carper	Jeffords	Snowe
Cochran	Lautenberg	Stevens
Coleman	Levin	Talent
Collins	Lieberman	Voinovich
DeWine	Lott	Warner
Durbin	Lugar	

NOT VOTING—15

Bayh	Cornyn	Kerry
Boxer	Craig	Miller
Breaux	Edwards	Sarbanes
Campbell	Graham (SC)	Specter
Chambliss	Hollings	Sununu

The amendment (No. 4041) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, Senator HATCH and Senator LEAHY have a crime bill that has been agreed to on both sides. I ask unanimous consent that they be allowed to bring up that bill, with debate time limited to 1 minute on each side.

Ms. LANDRIEU. May we have order in the Senate?

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I will not object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Also, just prior to that, I ask consent that Senator NICKLES have 1 minute to speak on the amendment just voted on.

Mr. REID. I am sorry, I couldn't hear that.

Mr. McCONNELL. One minute to speak on the amendment just voted on by Senator NICKLES, followed by 2 minutes equally divided by Senator HATCH and Senator LEAHY.

Mr. REID. I ask the Senator to modify his request to allow 1 minute on each side prior to voting on the Hutchison amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank our colleagues for the vote on the last amendment. I especially thank my colleague and friend, Senator CONRAD, for his eloquent debate on it, as well as for his support and cosponsorship of the amendment.

I think it is a good amendment. I think it helps the budget process. Also, I compliment my friend. It has been a pleasure to work with him on the Budget Committee. This was a good, positive budget change. I thank him for his leadership on this amendment.

Mr. HATCH. Mr. President, I ask unanimous consent that my reading of this procedural matter will not be counted against my 1 minute on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

INNOCENCE PROTECTION ACT OF 2004

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 5107, the DNA bill, which is at the desk; further, that the bill be read a third time and passed and the motion to reconsider be laid upon the table; provided further, that when the Senate receives from the House a correcting enrollment resolution relating to H.R. 5107, the Senate proceed to its consideration and the resolution be agreed to and the motion to reconsider be laid upon the table. Finally, I ask unanimous consent that if the House does not adopt the correcting enrollment resolution by the end of this Congress, then the Senate action on H.R. 5107 be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill (H.R. 5107) was read the third time and passed.

Mr. HATCH. Mr. President, this is the very important DNA bill which will help resolve the difficulties with over 400,000 rape kits in this country, some of which are 20 years old or older.

Mr. President, I would just like to compliment Debbie Smith and Kirk Bloodworth, who are two of the initiating people who have helped bring this about, but also all the people who worked so hard: Senator LEAHY, Senator BIDEN, Senator SPECTER, Senator FEINSTEIN, Senator DEWINE and, of course on the House side, Chairman SENSENBRENNER and Representative BILL DELAHUNT for their dogged determination, and to Senators KYL, SESSIONS, and CORNYN who did a really great job on this bill; also staff on both sides, in both Houses.

With that, I yield the floor.

Mr. KYL. Mr. President, as the primary drafter of Title I of H.R. 5107, I

would like to make a few comments. After extensive consultation with my colleagues, broad bipartisan consensus was reached and the language in Title I was agreed to.

I would like to make it clear that it is not the intent of this bill to limit any laws in favor of crime victims that may currently exist, whether these laws are statutory, regulatory, or found in case law. I would like to turn to the bill itself and address the first section, (a)(1), the right of the crime victim to be reasonably protected. Of course the government cannot protect the crime victim in all circumstances. However, where reasonable, the crime victim should be provided accommodations such as a secure waiting area, away from the defendant before and after and during breaks in the proceedings. The right to protection also extends to require reasonable conditions of pre-trial and post-conviction relief that include protections for the victim's safety.

I would like to address the notice provisions of (a)(2). The notice provisions are important because if a victim fails to receive notice of a public proceeding in the criminal case at which the victim's right could otherwise have been exercised, that right has effectively been denied. Public court proceedings include both trial level and appellate level court proceedings. It does not make sense to enact victims' rights that are rendered useless because the victim never knew of the proceeding at which the right had to be asserted. Simply put, a failure to provide notice of proceedings at which a right can be asserted is equivalent to a violation of the right itself.

Equally important to this right to notice of public proceedings is the right to notice of the escape or release of the accused. This provision helps to protect crime victims by notifying them that the accused is out on the streets.

For these rights to notice to be effective, notice must be sufficiently given in advance of a proceeding to give the crime victim the opportunity to arrange his or her affairs in order to be able to attend that proceeding and any scheduling of proceedings should take into account the victim's schedule to facilitate effective notice.

Restrictions on public proceedings are in 28 CFR Sec. 50.9 and it is not the intent here today to alter the meaning of that provision.

Too often crime victims have been unable to exercise their rights because they were not informed of the proceedings. Pleas and sentencings have all too frequently occurred without the victim ever knowing that they were taking place. Victims are the persons who are directly harmed by the crime and they have a stake in the criminal process because of that harm. Their lives are significantly altered by the crime and they have to live with the consequences for the rest of their lives. To deny them the opportunity to know

of and be present at proceedings is counter to the fundamental principles of this country. It is simply wrong. Moreover, victim safety requires that notice of the release or escape of an accused from custody be made in a timely manner to allow the victim to make informed choices about his or her own safety. This provision ensures that takes place.

I would like to turn to (a)(3), which provides that the crime victim has the right not to be excluded from any public proceedings. This language was drafted in a way to ensure that the government would not be responsible for paying for the victim's travel and lodging to a place where they could attend the proceedings.

In all other respects, this section is intended to grant victims the right to attend and be present throughout all public proceedings.

This right is limited in two respects. First, the right is limited to public proceedings, thus grand jury proceedings are excluded from the right. Second, the government or the defendant can request, and the court can order, judicial proceedings to be closed under existing laws. This provision is not intended to alter those laws or their procedures in any way. There may be organized crime cases or cases involving national security that require procedures that necessarily deny a crime victim the right not to be excluded that would otherwise be provided under this section. This is as it should be. National security matters and organized crime cases are especially challenging and there are times when there is a vital need for closed proceedings. In such cases, the proceedings are not intended to be interpreted as "public proceedings" under this bill. In this regard, it is not our intent to alter 28 CFR Sec. 50.9 in any respect.

Despite these limitations, this bill allows crime victims, in the vast majority of cases, to attend the hearings and trial of the case involving their victimization. This is so important because crime victims share an interest with the government in seeing that justice is done in a criminal case and this interest supports the idea that victims should not be excluded from public criminal proceedings, whether these are pre-trial, trial, or post-trial proceedings.

When "the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding," a victim may be excluded. The standards of "clear and convincing evidence" and "materially altered" are extremely high and intended to make exclusion of the victim quite rare, especially since (b) says that "before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the